

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member Diaz

February 20, 2003

An act ~~relating to taxation~~ to add Division 11 (commencing with Section 19000) to the Unemployment Insurance Code, relating to employment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, Diaz. ~~Taxation—Employment:~~ temporary employment ~~agencies—agency contributions.~~

~~The Sales and Use Tax Law authorizes the imposition of an excise tax for the privilege of selling tangible personal property at retail, and an excise tax for the privilege of using, consuming, or storing tangible personal property in the state.~~

~~This bill would set forth legislative findings and declarations and state the intent of the Legislature to enact a program to impose an excise tax on temporary employment agencies for the privilege of employing temporary workers.~~

Existing law requires employers in California to contribute to the Unemployment Fund, and other funds, by paying a tax based on wages paid to their employees. The proceeds from these compulsory contributions are used to provide unemployment insurance benefits for unemployed persons, as provided.

This bill would create a program that would require temporary employment agencies to contribute to the Temporary Employment Fund, which this bill would create, by paying a tax imposed on those

temporary employment agencies at a rate of 5% of the gross wages paid to temporary employees. This bill would designate the Director of Employment Development as the person responsible for the administration of the program, and would require that the time, procedure, manner of payment, and collection of contributions under the program be in accordance with similar provisions relating to unemployment compensation. This bill would also continuously appropriate moneys from the Temporary Employment Fund for allocation among the counties and cities, and would require that counties and cities expend those revenues exclusively for programs, relating to specified matters, that the counties and cities are required to provide by state law.

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Division 11 (commencing with Section 19000)*
2 *is added to the Unemployment Insurance Code to read:*

3

4 DIVISION 11. TEMPORARY EMPLOYMENT
5 CONTRIBUTIONS

6

7 CHAPTER 1. GENERAL PROVISIONS

8

9 Article 1. Findings and Declarations

10

11 19000. (a) The Legislature finds and declares the following:

12 ~~(a)–~~

13 (1) Over the last decade, temporary employment has grown
14 rapidly as a form of workforce organization. Between 1993 and
15 1998, employment growth in the temporary help industry has been
16 as great as employment growth in the software and electronic
17 component manufacturing industries combined.

18 ~~(b)–~~

19 (2) This expansion of temporary or contingent work has serious
20 consequences for California families and for cities and counties
21 that are providers of health, social, and community services.
22 Temporary workers are much less likely than permanent workers
23 to earn a living wage, to receive health insurance on the job, or to



1 have ~~a retirement program~~ *retirement programs*. They experience
2 high degrees of instability in income. As a result, they are more
3 likely to be dependent on local services for health care, for housing
4 support, and for child care and youth services programs. Because
5 ~~of their unreliable income stream, they~~ *their income streams are*
6 *unreliable, temporary workers* are vulnerable to homelessness.

7 ~~SEC. 2.—~~

8 (3) *Estimates indicate that only 11 percent of temporary*
9 *workers receive health insurance from their employers, and only*
10 *13 percent are eligible for employer-provided pension plans.*

11 (b) ~~It is the intent of the Legislature to enact a program that~~
12 ~~would in enacting this act to require temporary employment~~
13 ~~agencies to pay a tax to partially compensate local governments for~~
14 ~~the services the governments must provide to the particularly~~
15 ~~vulnerable group of California temporary workers.~~

16
17 *Article 2. Definitions*
18

19 *19001. For the purposes of this division, the following*
20 *definitions apply:*

21 (a) *“Client firm” or “client” means any person, including any*
22 *natural person, sole proprietorship, partnership, limited*
23 *partnership, corporation, limited liability company, or joint*
24 *venture for which a temporary employment agency procures or*
25 *provides temporary workers.*

26 (b) *“Contributions” means the money payments to the*
27 *Temporary Employment Fund that are required by this division.*

28 (c) *“Department” means the Employment Development*
29 *Department.*

30 (d) *“Director” means the Director of Employment*
31 *Development.*

32 (e) *“Temporary employment agency” means any person or*
33 *entity that is engaged in the business of supplying temporary*
34 *workers for other persons or firms or that finds temporary work for*
35 *other persons, including an agency of that person or entity.*

36 (f) *“Temporary worker” or “employee” means any worker of*
37 *a temporary employment agency who is not a permanent employee*
38 *and who renders personal services on a temporary basis to a third*
39 *person or entity under the direction or control of that person or*
40 *entity.*

1 (g) “Wages” means both of the following:

2 (1) Remuneration payable to an employee for personal
3 services, whether by private agreement or consent or by force of
4 statute, including commissions and bonuses, and the reasonable
5 cash value of all remuneration payable to an employee in any
6 medium other than cash.

7 (2) All tips that are received while performing services that
8 constitute employment and are included in a written statement
9 furnished to the employer pursuant to Section 6053(a) of the
10 Internal Revenue Code.

11
12 CHAPTER 2. ADMINISTRATION

13
14 Article 1. Employment Development Department

15
16 19010. The director is responsible for the administration of
17 this division, in accordance with the responsibilities and authority
18 vested in the director and the department by Article 1 (commencing
19 with Section 301) of Chapter 2 of Part 1 of Division 1, as
20 applicable.

21
22 Article 2. Temporary Employment Fund

23
24 19015. (a) There is in the State Treasury a special fund known
25 as the Temporary Employment Fund. There shall be deposited in
26 or transferred to this fund all contributions collected from
27 temporary employment agencies pursuant to Section 19020.

28 (b) Notwithstanding Section 13340 of the Government Code,
29 all money in the Temporary Employment Fund is hereby
30 continuously appropriated, without regard to fiscal year, for
31 expenditure as provided in Chapter 5 (commencing with Section
32 19040).

33 19016. The Temporary Employment Fund shall be
34 administered by the director exclusively for the purposes of this
35 division without liability upon the part of the state beyond the
36 amounts paid into and earned by the fund.

37 19017. The Treasurer is ex officio the treasurer and custodian
38 of the Temporary Employment Fund, and shall administer the fund
39 in accordance with the directions of the director. The official bond

1 *of the Treasurer shall cover the faithful performance of the duties*
2 *as treasurer of the Temporary Employment Fund.*

3
4 *CHAPTER 3. CONTRIBUTIONS*
5

6 *19020. (a) Each temporary employment agency shall pay*
7 *into the Temporary Employment Fund contributions of a rate of 5*
8 *percent of the gross wages paid to all temporary employees of the*
9 *temporary employment agency.*

10 *(b) The contributions required by this section may not be*
11 *deducted in whole or in part from the wages of the temporary*
12 *employees or workers employed by the temporary employment*
13 *agency making those contributions.*

14
15 *CHAPTER 4. PAYMENT AND COLLECTION*
16

17 *19030. Except as otherwise provided in this division, the time,*
18 *procedure, manner of payment, and collection of contributions*
19 *under this division shall be in accordance with the applicable*
20 *provisions of Part 1 (commencing with Section 100) of Division 1.*

21
22 *CHAPTER 5. DISPOSITION OF PROCEEDS*
23

24 *19040. (a) Revenues received pursuant to this division shall*
25 *be allocated among the counties in each fiscal year as follows:*

26 *(1) Twenty percent of revenues shall be allocated among the*
27 *counties in accordance with each county's percentage share of the*
28 *total population of all counties in this state, as determined by the*
29 *population research unit of the Department of Finance. The*
30 *population of each county is that county population determined by*
31 *the last federal census or subsequent census validated by the*
32 *population research unit.*

33 *(2) Eighty percent of revenues shall be allocated among the*
34 *counties in accordance with each county's percentage share of the*
35 *total amount of temporary employment agency contributions*
36 *revenue derived from all the counties in the state.*

37 *(b) Of the total amount of revenues it receives pursuant to this*
38 *division, each county shall allocate 50 percent among the*
39 *incorporated cities within the county and the county itself in the*
40 *following manner:*

1 (1) *The share of each incorporated city shall be determined in*
2 *accordance with each incorporated city's percentage share of the*
3 *total population of the county.*

4 (2) *The balance of the 50 percent shall be allocated to the*
5 *county.*

6 19041. *A county or city shall expend revenues received*
7 *pursuant to this division exclusively for those programs that the*
8 *county or city is required by state law to provide, for the following*
9 *purposes:*

10 (a) *Health services.*

11 (b) *Prevention of homelessness.*

12 (c) *Affordable housing, as described in the State Housing Bond*
13 *Act of 2002, and to help local governments meet their local*
14 *housing requirements as stated in the housing elements that are*
15 *required to be part of their general plans.*

16 (d) *Public safety services, as defined by law for purposes of*
17 *Section 35 of Article XIII of the California Constitution.*

